

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JIANGSU GTIG ESEN CO., LTD.,

Plaintiff,

v.

AMERICAN FASHION NETWORK, LLC, AND JES
APPAREL, LLC,

Defendants.

**DECLARATION OF
BRIAN J. BUTLER IN
SUPPORT OF
PLAINTIFF'S MOTION
FOR DEFAULT
JUDGMENT BY THE
CLERK**

Civil Action No.
5:20-cv-00222 (MAD/ATB)

DECLARATION OF BRIAN J. BUTLER

Brian J. Butler, Esq. declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a member of the law firm Bond, Schoeneck & King, PLLC, attorneys for the plaintiff in the above-captioned action, Jiangsu Gtig Esen Co., Ltd., (hereinafter "Plaintiff").

2. I submit this declaration in support of Plaintiff's Application to the Clerk for Default Judgment against the defendants, American Fashion Network, LLC and JES Apparel, LLC (collectively, "Defendants") pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure and Rule 55.2(a) of the Local Rules for the Northern District of New York.

3. Neither of the Defendants is an infant or an incompetent person.

4. Neither of the Defendants is in the military.

5. Plaintiff commenced this action by filing its Complaint against Defendants on February 27, 2020. See Dkt. No. 1.

6. Both Defendants have defaulted in appearance in the action.

7. Service was properly effected on defendant American Fashion Network, LLC. On March 11, 2020, Plaintiff filed proof of service demonstrating that American Fashion Network, LLC was duly served with the Summons and Complaint in this action by means of service through the New York Secretary of State on March 9, 2020, pursuant to Rule 4 of the Federal Rules of Civil Procedure and New York Limited Liability Law § 303. See Dkt. No. 5. Attached as **Exhibit A** is the filed affidavit of service for defendant American Fashion Network, LLC.

8. Service was properly effected on defendant JES Apparel, LLC. On March 11, 2020, Plaintiff filed proof of service demonstrating that JES Apparel, LLC was duly served with the Summons and Complaint in this action by means of service through the Secretary of State on March 11, 2020, pursuant to Rule 4 of the Federal Rules of Civil Procedure and New York Limited Liability Law § 303. See Dkt. No. 6. Attached as **Exhibit B** is the filed affidavit of service for defendant JES Apparel, LLC.

9. Defendant American Fashion Network, LLC's time to answer or otherwise defend this action expired on March 30, 2020, pursuant to the Court's Text Entry Setting/Resetting the Deadline to Answer, which Text Entry was entered on March 13, 2020 and updated March 20, 2020.

10. Defendant JES Apparel, LLC's time to answer or otherwise defend this action expired on April 1, 2020, pursuant to the Court's Text Entry Setting/Resetting

the Deadline to Answer, which Text Entry was entered on March 13, 2020 and updated March 20, 2020.

11. Neither of the Defendants served or filed an answer or a motion pursuant to Rule 12 of the Federal Rules of Civil Procedure, or otherwise defended this action.

12. Neither of the Defendants requested a further extension of time to answer or move with respect to Plaintiff's Complaint, and Plaintiff did not agree to any further extension.

13. Plaintiff made application to the Clerk of the Court for a Clerk's Entry of Default, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and Rule 55.1 of the Local Rules for the Northern District of New York. See Dkt. No. 8 and Dkt. No. 9.

14. The Clerk entered a certificate of entry of default on April 13, 2020. See Dkt. No. 10. Attached as **Exhibit C** is the Clerk's Entry of Default.

15. Plaintiff is now entitled to a Default Judgment against Defendants.

16. As set forth in the Declaration of Xing Zhangjuan and the attached Statement of Amounts Due, Without Interests or Costs, the amount shown is justly due and owing and no part has been paid except as set forth in the Statement of Amounts Due, Without Interests or Costs. Attached as **Exhibit D** is the Declaration of Xing Zhangjuan dated May 6, 2020, with Exhibit 1, Statement of Amounts Due, Without Interests or Costs.

17. As part of its Motion for Default Judgment, Plaintiff has submitted a Statement of Amounts Due, With Interests and Costs as required by Local Rule 55.2(a).

Attached as **Exhibit E** is the Statement of Amounts Due, With Interest and Costs, with Appendix I: Interest Calculation.

18. The Statement of Amounts Due, With Interests and Costs shows the principal amount due, which does not exceed the amount demanded in the Complaint, and credits Defendants with payments made prior to and after the Complaint for the amounts and dates of payments, in accordance with Local Rule 55.2(a). See Exhibit E, Appendix I; Dkt. No. 1.

19. Interest has been calculated for each unpaid and past due invoice from the due date of each invoice to May 6, 2020, at the statutory rate of nine per centum per annum or (9% / 365) per diem, pursuant to CPLR §§ 5001, 5004 and Local Rule 55.2(a). See Exhibit E, Appendix I.

20. The disbursements sought to be taxed have been made in the action or will necessarily be made or incurred. See Exhibit E

21. The amount shown in the Statement of Amounts Due, With Interest and Costs, \$4,979,437.53, is justly due and owing and no part has been paid except as set forth as Local Rule 55.2(a) requires. See Exhibits D and E.

22. Based on the foregoing, Plaintiff respectfully requests that the Clerk of the Court enter Default Judgment against Defendants and in favor of Plaintiff in the amount of \$4,979,437.53, pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure and Rule 55.2(a) of the Local Rules for the Northern District of New York.

23. Plaintiff respectfully requests that the Clerk of the Court grant Plaintiff's Motion for Default Judgment, pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure and Local Rule 55.2(a).

24. A proposed judgment is attached hereto as **Exhibit F**.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 8th day of May 2020.



Brian J. Butler (510105)